IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

TUESDAY, THE 18TH DECEMBER 2007 / 27TH AGRAHAYANA 1929

WP(C).No. 37506 of 2007(M)

OS.480/2001 of PRL.MUNSIFF COURT,THRISSUR

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PETITIONERS:

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1. SARMMA,S/O.ITTILAVALAPPIL BALAKRISHNAN
   PUZHAKKAL VILLAGE, DESOM, THRISSUR TALUK.

2. MANOJ, S/O. KARUVANPARAMBIL CHANDRAN
   MUTHUVARA DESOM,PUZHAKKAL VILLAGE,
   DESOM, THRISSUR TALUK.

BY ADV. SRI.JIJO PAUL

RESPONDENT:

SUHRUDHA KURIES (P) LTD.
VADAKKANCHERY,REPRESENTED BY
MANAGING DIRECTOR, P.N.RAJAN,
S/O. PALAPPARAMBIL NARAYANAN EZHUTHASSAN
VADAKKANCHERY VILLAGE, DESOM,THALAPPILLY TALUK
THRISSUR DISTRICT.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 18/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.N.KRISHNAN, J.

W.P.(C). NO. 37506 OF 2007

Dated this the 18th day of December, 2007

J U D G M E N T

This writ petition is preferred against the order of the Munsiff, in E.P. 1099/03 in O.S. 480/01. The order reads as follows:

"No payment despite promise. Issue arrest warrant."

2. Since the 2nd judgment debtor is a lady, I hold that no order of arrest be issued against her. So far as petitioners 1 and 3 are concerned, it is seen from their counter statement that they are pleading no means. The order does not reveal that any enquiry is conducted on the pleadings of no means. Therefore, it suffers from serious infirmity.

3. The order under challenge is set aside and the matter is remitted back to the court below for fresh consideration on the question of means after affording equal opportunity to both sides to adduce evidence in support of their respective contentions. Since I am disposing the matter at the admission stage itself, the court below shall issue notice to the decree holder and fix up a date and dispose of the matter in accordance with law.

The writ petition is disposed of accordingly.

M.N.KRISHNAN, JUDGE

vps